

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Robert Stieper Milligan	:	Examiner: Arthur L. Corbin
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Serial No.: 10/756,373	:	Group Art Unit: 1761
	:	
Filed: January 14, 2004	:	Attorney Docket No.: 57282.2
	:	
For: INJECTION MOLDED MEAT BASED PET PRODUCT	:	Customer No.: 27128
	:	
	:	Confirmation No.: 2361
Final Office Action: June 15, 2007	:	

DECLARATION UNDER 37 CFR 1.132

I, Robert Stieper Milligan, do hereby declare as follows:

1. I am the inventor as well as a corporate manager at MI Industries, Inc. the assignee of the above identified U.S. Patent Application.
2. I have more than 25 years' experience in the pet products industry.
3. I have been involved in the continued development of the subject matter claimed in the above identified U.S. patent application Serial No. 10/756,373, filed January 14, 2004.
4. I have read and I am thoroughly familiar with the Office Action, dated June 15, 2007, with respect to the above identified application and the statement by the Examiner that the

application Serial No. 10/756,373 only supports the use of animal meal for the injection molded meat-based pet treats.

5. I make this Declaration in support of the patentability of the claims of application Serial No. 10/756,373.

6. From a pet products manufacturing standpoint, it is clear that the specification of the application Serial No. 10/756,373 clearly encompasses the use of animal meat of big chunk size for the injection mold meat-based animal treats.

7. The specification of the application Serial No. 10/756,373, at paragraph [0008], expressly states that "the desired particle size of between 300 to 1200 microns is achieved."

8. Our company performed Experimental Test which disclosed that 92% of the tested dogs prefer the molded meat-based treat having a particle size of between 300 and 1,200 microns, when compared to smaller micron size of less than 100 microns.

9. To the best of my knowledge, using animal meat particles of a particle size of between about 300 and about 1,200 microns for the injection molded dog treat, or finding the optimum animal meal particle size for the injection molded dog treat is not a routine experimentation in the field of pet toys.

10. In addition, I have reviewed our sales and market research records for molded meat-based pet treats that contain the invention claimed in the above identified Patent Application. We have produced molded meat-based dog's chew treat that utilizes the invention. That is our

product reference number M9005.

11. The sales for the treat for 2005, and YTD 2006 are as follows: We have conducted considerable market research into the commercial viability of this product, including the testing of product samples. This research supports projected first year sales in excess of \$1,500,000. Our company currently sells over \$524,000 (at wholesale) of pet treat products.

12. In view of solid and considerable commercial sales interest, it is my opinion that this indicates a clear commercial success for this product in the marketplace. The claimed inventive combination and in particular those features relating to the using the animal meat of chunk size for the injection molded pet treat as defined in the independent claims provide a point of distinction over other injection molded pet treat in the industry. I attribute the sales of these injection molded meat-based pet treat to the claimed inventive features and their particular construction. The commercial success of the injection molded meat-based pet treat, in my opinion is attributable to the particular features of the animal meat of chunk size compared to conventional injection molded pet treat previously manufactured by others.

13. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above referenced application or any patent issuing thereon.

Serial No.: 10/756,373
Attorney Docket No.: 57282.2

Signature: Robert Stieper Milligan
Robert Stieper Milligan

Date: October 9, 2007